

### **REMARKS**

The following remarks are submitted in response to the non-final Office Action mailed August 18, 2008. Claim 22 has been amended. Claims 43-47 were added. Support for claims 43-47 can be found, for example, in [0053]. Claims 22-38 and 42-47 remain pending in the Application. Reconsideration, examination and allowance of all pending claims are respectfully requested.

#### **Amendment to Drawings**

Figure 1 has been added to the application. Support can be found, at least, in [0053]. No new matter was introduced in this drawing.

#### **35 U.S.C. § 112 Rejections**

In paragraph two of the Office Action, the Examiner rejects claims 22-33 and 42 under U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.

In particular, the Examiner objects to the use of the limitation "continuous coating" in claim 22. The Examiner argues that the limitation was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In order to advance prosecution in this case, Applicant has amended independent claim 22. Accordingly, Applicant requests that the § 112 paragraph one rejection of claims 22-33 and 42 be withdrawn.

#### **35 U.S.C. § 103(a) Rejections**

Claims 22-29 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yasushi et al.* (JP 02-182259). Applicant must respectfully traverse this rejection. All words in a claim must be considered in judging the patentability of that claim against the prior art (MPEP § 2143.03).

The Examiner argues that *Yasushi et al.* teaches all the elements of claim 22 except coating the wetting agent on the surface of the gelatin. However, the Examiner argues that "...[t]he presence of the wetting agent as a coating on the surface does not impart

patentability of the claims” and that “[n]o superior and unexpected results of record obtained by coating the wetting agent on the surface of the gelatin versus incorporating the wetting agent into the gelatin.”

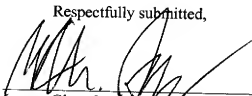
Applicant respectfully traverses this argument. However, to move prosecution forward in this case, Applicant has amended claim 22. Amended claim 22 now recites a biocompatible, hemostatic, cross-linked gelatin composition wherein “a non-aqueous solvent is used to dissolve the wetting agent.” Using a non-aqueous solvent to dissolve the wetting agent provides a number of advantages not present in the *Yasushi et al.* reference. For example, employing an aqueous solvent to dissolve the wetting agent can irreversibly damage the foam. The damage to the foam is usually due to water’s lower evaporation rate (last-solvent-out effect). This last-solvent-out effect can deposit water in the foam (long after the main solvent has evaporated), damaging the properties of the foam. On the other hand, using a non-aqueous solvent to dissolve the wetting agent protects the structural properties of the foam (see [0122]). Since the *Yasushi et al.* reference does not appear to teach every word of amended claim 22, Applicant respectfully asserts that claim 22 is not anticipated by the cited art. Furthermore, since claims 23-29 and 42 depend from claim 22, Applicant believes these claims are also patentable over the cited reference.

### Conclusion

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, and issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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